



FR-4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 32607 (Sub-No. 4)]

Kiamichi Railroad L.L.C.—Trackage Rights Exemption—WFEC Railroad Company

Pursuant to a written joint facility agreement dated January 1, 2012, WFEC Railroad Company (WFECR) has agreed to grant limited nonexclusive overhead trackage rights to Kiamichi Railroad L.L.C. (KRR), over its entire line (the Line), between milepost 0.0 at Western Farmers Electric Cooperative, Inc.'s (Western Farmers) Hugo electric generating station and milepost 14.98, where WFECR connects to the line of the Texas, Oklahoma & Eastern Railroad Company, in Choctaw and McCurtain Counties, Okla.<sup>1</sup>

The transaction is scheduled to be consummated on May 2, 2012, the effective date of the exemption (30 days after the exemption was filed).

The purpose of the transaction is to permit KRR to provide rail service between the Hugo electric generating station and other Western Farmers' facilities located on or adjacent to the Line, or which may locate on or adjacent to the Line in the future, and connections to the lines of KRR and other rail carriers.<sup>2</sup>

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the

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<sup>1</sup> The Board previously granted KRR certain authority to operate over the Line. See Kiamichi R.R.—Trackage Rights Exemption—WFEC R.R., FD 32607 (Sub-No. 3) (STB served May 16, 2002).

<sup>2</sup> KRR will have no authority to serve any other shippers on the Line. WFECR will retain the authority and responsibility for serving any such shippers.

exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by April 25, 2012 (at least 7 days before the exemption becomes effective).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

An original and 10 copies of all pleadings, referring to Docket No. FD 32607 (Sub-No. 4), must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

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Decided: April 12, 2012.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. White

Clearance Clerk

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[FR Doc. 2012-9326 Filed 04/17/2012 at 8:45 am; Publication Date: 04/18/2012]